IN THE HIGH COURT OF BOMBAY AT GOA
****

FIRST APPEAL NO. 298 OF 2002

Shri C. A. Mohammed,
s/o M. Mohammed,
major in age,
r/o H.No.362,
2nd Dando, Navelim,
Salcete, Goa. ... Appellant.

Versus

1. Shri Ashlon F. Vaz,
s/o Antonio S.P. Vaz,
student, minor, aged
17 years, represented
by his father and next
friend Antonio Santana
Patrocinio Vaz,
r/o "Ashpil" House no.7,
Aquem - Barxo,
Navelim, Salcete, Goa, and

2. Shri Ramdas K. Naik,
major in age,
r/o H. No.600/A,
Govalkhol,
Canacona, Goa. ... Respondents.

Shri A. D. Bhobe, advocate for the appellant.

Shri J. P. Mulgaokar, advocate for the respondents.

CORAM: D. G. DESHPANDE, J.

DATE: 10th January, 2003.

ORAL ORDER

Heard learned advocate for the appellant and learned advocate for the respondent no.1/claimant.

This First Appeal is filed against the Order of the Motor Accident Claims Tribunal, South Goa at Margao, granting compensation under 'no fault liability' to the claimant tothe tune of Rs.25,000/-. Learned counsel for the appellant contends that without recording evidence and

without asking the claimant to at least prove, prima facie, the involvement of the vehicle owned by the appellant, the Tribunal should not have awarded compensation under 'no fault liability'.

2. As against this, learned counsel for the respondents contended that as required by Rule 296 of the Goa Motor Vehicles Rules, 1991, the Court was required to take into consideration five aspects, namely (i) the registration certificate; (ii) the insurance certificate; (iii) Panchanama and First Information report; (iv) Post-mortem Report or Death Certificate or certificate of injury and (v) nature of the treatment given. He therefore contended that in the F.I.R. the name of the appellant is specifically mentioned. He also relied upon the judgment of the Madhya Pradesh High Court in the case of **Sunita Sakti & Ors.** vs. **Imam Ali & Ors.,** (2000 ACJ 1553), wherein on the same criterion the grant of compensation for 'no fault liability' was upheld.

3. Learned counsel for the appellant contended that the accused, i.e. the driver of the vehicle was acquitted in the criminal case for want of evidence connecting the vehicle with the accident. Admittedly, that cannot be a relevant factor for the purpose of deciding compensation for 'no fault liability'. The number of the vehicle is given in the F.I.R. and as held by the Madhya

Pradesh High Court in para 10 of the case in Sunita Sakit (supra), the vehicle owner or driver had not been able to establish that the vehicle was somewhere else and that the number was recorded through some animosity. Sufficient material was there before the Tribunal for awarding compensation. Therefore, no interference is called for in this Appeal.

4. However, the anxiety of the appellant is that if the amount is paid to the original claimant without any conditions, then in case of the success of the appellant ultimately in the appeal, it will be difficult for him to recover the amount. This apprehension is well justified, in the circumstances of the case. In view of this therefore, the claimant to receive the amount on execution of a bond and security with one surety for the like amount, to the satisfaction of the trial Court.

5. Appeal dismissed.

D. G. DESHPANDE,J.

mc.